

Exhibit 45

JOHN MCDERMOTT
1/19/2022

Page 129

the pandemic. There's still people fearful of the pandemic that don't go out. So to see the numbers dip and then to see them start to rise and then, you know -- and based on conversations with other shops that weren't in the CHOP, people's ability to come back stronger than they were before during the pandemic -- there's numerous shops that have reported that to me and asked me the question, well, why are your numbers still down, you know, because there are, you know, business communities that you compare numbers with.

Q. Right, but I'm just talking about your numbers for now. That's --

A. You asked the question; I'm answering it.

Q. I think we've --

A. The reason our numbers did not recover was because of CHOP, because we had to move our business. The reason we had to move our business -- and I don't know if you've ever had anybody point a gun at you or had 10 or 20 or 30 guns pointed at you. It's not a very comforting feeling, and --

Q. So just --

A. -- to ask people to come to that environment -- they don't want to come see us.

Q. Okay. So focus on --

A. We had customers that would drive to our shop to

Page 131

where it ended up.

Q. Okay. So is it fair to say that the decrease in total sales in March, April, and May of 2020 is attributable to COVID?

A. Sure.

Q. Okay. And then just looking at June 2020, so I know -- I know you mentioned CHOP. You used a couple of dates, so I think you said earlier May 29th. Is that the date that you consider CHOP to have started?

A. Basically because that's when all the riots started happening. That's not the date that they installed the barriers, but that's when the City started allowing all the rioting and all that stuff to go on.

Q. Okay. And so based on -- and we'll get to that, but fair to say that CHOP was ongoing in June of 2020; correct?

A. Without question.

Q. And was the pandemic still ongoing at that point?

A. Last I checked when I got up this morning, it's still ongoing today.

Q. So is that a yes?

A. It would be a yes.

Q. And you mentioned earlier that you had an employee who left in 2018 -- he got injured and he left; right?

Page 130

get their car repaired, realize where it was, turn around and leave.

Q. Uh-huh. Okay. And so in February to March, you were saying that, because of the pandemic, there were fewer cars on the road in March of 2020; right?

A. And fewer people that wanted to get their cars repaired.

Q. Okay, and fewer people that wanted to get their cars repaired. So -- and March, April, May monthly sales in 2020 were all sort of around the same number? Do you agree with that?

MR. WEAVER: Objection.

A. Let me look. I can't remember.

BY MS. IVERSON:

Q. So we can go -- you can just go down one page to --

A. Yeah --

Q. -- scroll all the way down to that other page. This is just one page down from where we were. So March, April, May 2020, we can focus again on total sales since we are talking about sales.

A. I mean for the individual months, I mean it went obviously down from March to April, and they opened things back up, it's kind of end May, and then it started picking back up in June and then the CHOP hit and that's kind of

Page 132

A. Correct.

Q. And you hadn't replaced him --

A. Correct.

Q. -- as of June 2020; right? Okay. So you had this same employee was gone for all of 2019, and he was gone at least up until --

A. I think in February of 2020 they determined that he was permanently disabled.

Q. Okay, but so --

A. I mean I'd have to look and find out. I can't remember.

Q. Right, and you hadn't replaced him; right?

A. No.

Q. Okay. So it looks like in June of 2020, your total sales were \$101,955; is that right?

A. According to the statement, I'd say yes.

Q. And obviously that's higher than what they were in May of 2020; correct?

A. Correct.

Q. Okay. And then if we could just turn back to Exhibit 130, please.

A. You know, the other thing you have to understand too is part of, you know, per our previous conversation that, you know, we could have repaired those cars in May and they might not have left until June, and they could

33 (Pages 129 to 132)

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JOHN MCDERMOTT
1/19/2022

Page 169

1 A. Right at the corner of 12th and Olive.
2 Q. Okay, was it perpendicular to the parking lot, as
3 in did the barrier stretch across --
4 A. It was -- it was -- they did stretch across 12th
5 Avenue and they were perpendicular to one edge of the lot
6 or parallel to one edge as well.
7 Q. Perpendicular to --
8 A. So this is perpendicular.
9 Q. Uh-huh.
10 A. This is parallel. And I think my lot parallels
11 Olive, one edge of my lot parallels 12th, so it was equally
12 perpendicular and parallel.
13 Q. Okay. So it was more than one barrier?
14 A. There was multiple barriers, yeah.
15 Q. Do you know how many?
16 A. I believe there was two. There may have been
17 three.
18 Q. Okay. So one of them was in the intersection
19 of --
20 A. Yeah, I didn't take pictures of them, so I can't
21 remember how many.
22 Q. Oh, okay. But you observed them being put up;
23 right?
24 A. Yep, yep.
25 Q. -- were there every day from that point forward;

Page 171

1 Q. Okay. And so did the barriers in front of Car
2 Tender block access to Olive street at all?
3 A. Yes, I mean if -- have you looked at a map where
4 they placed the barriers?
5 Q. I -- I am asking --
6 A. Do you have access to that?
7 Q. I'm just asking for your description of where the
8 barriers were placed. If you can't answer it, that's fine,
9 just let me know.
10 A. I can, it's just -- I mean -- anyways, yes, they
11 were on 12th Avenue.
12 Q. Okay. They were on 12th Avenue, but they weren't
13 on Olive Street?
14 A. At my location.
15 Q. Sorry.
16 A. At my location.
17 Q. Olive Street at Car Tender's location, okay. And
18 so once those barriers were -- once the 12th Avenue barrier
19 was put up --
20 A. Once the main access to Car Tender was blocked
21 off, yeah.
22 Q. Uh-huh, so did you change the access point to the
23 parking lot?
24 A. No.
25 Q. Okay. So how -- how did customers get into --

Page 170

1 right? Okay.
2 A. Yep.
3 Q. And so -- but you just -- you don't know how many
4 it was?
5 A. I don't.
6 Q. Okay. And so they were -- but there were at
7 least two?
8 A. I believe it was three, minimum two.
9 Q. Okay. So two to three?
10 A. Yep.
11 Q. Okay. And was one of them in the intersection --
12 were they in the crosswalk? Where were they placed?
13 A. They were before the crosswalk.
14 Q. Okay, before the crosswalk. And did they stretch
15 from the west to the east side of the street?
16 A. Yep.
17 Q. On 12th Avenue?
18 A. Yep.
19 Q. Okay, and they stretched from the north to the
20 south side of the street on Olive?
21 A. They did not on Olive. They did not. They did
22 not put them on Olive.
23 Q. They were not on Olive, okay. So the barriers
24 that you're talking about were only on 12th Avenue.
25 A. Yeah.

Page 172

1 drive -- sorry, did customers then drive their cars into
2 Car Tender's parking lot?
3 A. Yes, only way they could get there was from the
4 north.
5 Q. Okay. So from the north on 12th Avenue?
6 A. Yes.
7 Q. Okay. And then so when that -- at that point, so
8 June 8th, you watched the barriers get put up; is that
9 right?
10 A. Yes.
11 Q. Okay. And then did you at any point after that
12 change your store hours?
13 A. No, we were still there normal hours.
14 Q. Okay, normal hours. So normal at that time
15 was --
16 A. 8:00 to 5:00.
17 Q. Okay, got it. And then I know -- so you talked
18 about some customer -- customer impacts. At that point,
19 June 8th and beyond, did any customers come to your store
20 in the month of June?
21 MR. WEAVER: Objection, asked and answered.
22 A. After the 8th, yes.
23 BY MS. IVERSON:
24 Q. And what about in July?
25 A. I mean you can see obviously in July customers

43 (Pages 169 to 172)

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Page 269

REPORTER'S CERTIFICATE

I, Mindy L. Suurs, the undersigned Certified Court Reporter, pursuant to RCW 5.28.010, authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify:

That the foregoing testimony of JOHN McDERMOTT was given before me at the time and place stated therein and thereafter was transcribed under my direction;

That the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability;

That the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript;

That the witness, before examination, was by me duly sworn to testify the truth, the whole truth, and nothing but the truth;

That I am not a relative, employee, attorney, or counsel of any party to this action or relative or employee of any such attorney or counsel and that I am not financially interested in the said action or the outcome thereof;

DATE: January 25, 2022

Mindy L. Suurs

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68 (Page 269)